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**BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

| | | |
|---------------------------------|---|------------------------------|
| IN THE MATTER OF THE LICENSE OF |) | |
| CINDY LEE PETERSON |) | STIPULATION AND ORDER |
| TO PRACTICE AS A |) | |
| HEALTH FACILITY ADMINISTRATOR |) | CASE NO DOPL 2011- 351 |
| IN THE STATE OF UTAH |) | |

CINDY LEE PETERSON ("Respondent") and the **DIVISION OF OCCUPATIONAL
AND PROFESSIONAL LICENSING** of the Department of Commerce of the State of Utah
("Division") stipulate and agree as follows:

1. Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action.
2. Respondent acknowledges that Respondent enters into this Stipulation knowingly and voluntarily

3. Respondent understands that Respondent has the right to be represented by counsel in this matter and Respondent's signature below signifies that Respondent has either consulted with an attorney or Respondent waives Respondent's right to counsel in this matter.

4. Respondent understands that Respondent is entitled to a hearing before the State of Utah's Health Facility Administrator's Licensing Board ("the Board"), or other Division Presiding Officer, at which time Respondent may present evidence on Respondent's own behalf, call witnesses, and confront adverse witnesses. Respondent understands that by signing this document Respondent hereby waives the right to a hearing, the right to present evidence on Respondent's own behalf, the right to call witnesses, the right to confront adverse witnesses, and any other rights to which Respondent may be entitled in connection with said hearing. Respondent understands that by signing this document Respondent waives all rights to any administrative and judicial review as set forth in Utah Code Ann. §§ 63G-4-301 through 63G-4-405 and Utah Administrative Code R151-46b-12 through R151-46b-15. Respondent and the Division hereby express their intent that this matter be resolved expeditiously through stipulation as contemplated in Utah Code Ann. § 63G-4-102(4)

5. Respondent waives the right to the issuance of a Petition and a Notice of Agency Action in this matter

6. Respondent understands that this Stipulation and Order, if adopted by the Director of the Division, will be classified as a public document. The Division may release this Stipulation and Order, and will release other information about this disciplinary action against Respondent's license, to other persons and entities

7 Respondent admits the following facts are true:

- a Respondent was first licensed to practice as a health facility administrator in the State of Utah on or about September 15, 1993.**
- b. On or about February 4, 2011 the Drug Enforcement Administration, assisted by investigators of the Utah Division of Occupational and Professional Licensing, executed a search warrant at a long term care facility in Centerfield, Utah which is owned in part by Respondent. Respondent was the licensed Health Care Facility Administrator for the facility. Respondent also worked occasionally as a registered nurse at the facility.**
- c. At the time the search warrant was executed Respondent explained to investigators that when a patient dies, or leaves the facility, any unused medications, including controlled substances, are taken by the medical staff and placed in a storage cart within the office of Jane Doe and destroyed in accordance with the facility's destruction policies at that time.**
- d. When the facility subsequently received an order from a prescribing practitioner to administer medication to a current resident, and the prescribed medications were not currently available from local pharmacies within the timeframe that the prescribing practitioner had ordered the resident to start taking the medication, the unused medications were then accessed and administered to facility residents to comply with the prescribing practitioner's order. These actions occurred only when the facility's e-kit did not contain the prescribed medications and when no local pharmacy was open within the prescribed timeframe for the resident to start taking the prescribed medication.**
- e. The existing prescription label and identifying information that was previously issued to the former patient of the facility would be crossed out and the medication would be redistributed to another resident of the facility.**
- f. Respondent states that detailed records were made and kept by Jane Doe in her office at the facility as part of her job overseeing all medications used to comply with physicians' orders. Respondent knows of no missing medications or controlled substances that were stored in the manner described above. Respondent states that no patient was injured based upon the facilities' action described above.**

8 Respondent agrees that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a) and (h), and § 58-31b-502(5), and

unlawful conduct as defined in Utah Code Ann. § 58-17b-501(9) and § 58-37-8(1)(a)(i)

Respondent agrees by engaging in such conduct the Division is justified in taking disciplinary

action against Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a) and (b)

Respondent agrees that an Order, which constitutes disciplinary action against Respondent's

license by the Division pursuant to Utah Administrative Code R156-1-102(6) and Utah Code

Ann. § 58-1-401(2), may be issued in this matter providing for the following action against

Respondent's license:

- (1) Respondent's license shall be revoked That revocation shall be immediately stayed and Respondent's license shall be subject to a term of probation for a period of three years. The period of probation shall commence on the date the Division Director signs the accompanying Order. During the period of probation Respondent's license shall be subject to all of the following terms and conditions. If the Board or Division later deems any of the conditions unnecessary such deletions may be made by an amended order issued unilaterally by the Division.
 - a Respondent shall meet with the Board at the next scheduled Board meeting following the signing of the accompanying Order. Respondent shall meet with a Division staff person prior to Respondent's first meeting with the Board to review this agreement. For the remainder of the duration of probation, Respondent shall meet with the Board or with the Division, as directed and notified by the Division, annually or at such other greater or lesser frequency as the Division may direct.
 - b Respondent shall complete all terms and conditions of any court imposed sanctions, incurred before or during the period of this agreement, including probation or parole If Respondent has not successfully completed all the terms and conditions of Respondent's court imposed probation at the time Respondent's administrative probationary period ends, the period of Respondent's administrative probation shall be extended until all the conditions of Respondent's court imposed probation have been successfully completed

- c. Failure of Respondent to pay the costs associated with this Stipulation and Order constitutes a violation of the Stipulation and Order.
- d. All reports and documentation required in this Stipulation and Order shall be submitted to the Board on a monthly basis, on the first day of each month, for the first six months of probation. If Respondent is in compliance with all terms and conditions of the Order at the end of that time, all reports and documentation shall be submitted on a quarterly basis for the remainder of probation. If Respondent is not in compliance with all terms and conditions of the Order by the end of the first six (6) months of probation, all reports and documentation shall be submitted on a monthly basis until Respondent is in compliance with the Order, after which all reports shall be submitted on a quarterly basis.
- e. Respondent shall complete and submit to the Board a self-assessment report at the frequency described in subparagraph (d) above. The self-assessment report shall be completed on a form prescribed by the Division. Respondent need not submit self-assessment for both her RN license and her health facility administrator license.
- f. Respondent shall notify any employer of Respondent's restricted status and the terms of this agreement. Respondent shall further cause Respondent's employer to submit performance evaluations to the Board at the frequency described in subparagraph (d) above. The receipt of an unfavorable report may be considered to be a violation of probation. If Respondent is not employed as a health facility administrator, Respondent shall submit the employer report form on the date it is due and indicate on that form that Respondent's current employment is not in health facility administration or that Respondent is not currently working.
- g. Respondent shall provide to Respondent's employer(s) a copy of this Stipulation and Order and cause each employer to acknowledge to the Board in writing, that a copy of this Stipulation and Order has been provided to the employer.
- h. Respondent shall practice only under the general supervision of the medical director of the health care facility where Respondent is employed as a health facility administrator. The supervisor shall be a physician in good standing with the Division. Respondent

shall provide a copy of this Stipulation and Order to Respondent's supervisor. The supervisor shall be primarily one (1) person who may periodically delegate his or her supervisory responsibilities over Respondent to other qualified personnel. Respondent shall cause the supervisor to submit supervisor reports, on a form pre-approved by the Division and Board, to the Division and Board at the frequency described in subparagraph (d) above, or at a frequency directed by the Division and Board. The supervisor's report shall address Respondent's work performance, Respondent's adherence to federal and state laws and rules, and the provision of quality patient care.

- i. In the event Respondent does not practice as a health facility administrator for a period of sixty (60) days or longer, Respondent shall notify the Board in writing of the date Respondent ceased practicing. The period of time in which Respondent does not practice shall not be counted toward the time period of this Stipulation and Order. It shall be within the discretion of the Board to modify this requirement if Respondent satisfactorily explains to the Board that compliance in Respondent's case was impractical or unduly burdensome. Respondent must work at least sixteen (16) hours per week and no more than forty-eight (48) hours per week to be considered "practicing" in Respondent's profession.
- j. Respondent shall notify the Board in writing within one (1) week of any change of employer, employment status, or practice status. This notification is required regardless of whether Respondent is employed in Respondent's profession.
- k. If Respondent leaves the State of Utah for a period longer than sixty (60) days, Respondent shall notify the Division and Board in writing of the dates of Respondent's departure and return. The licensing authorities of the jurisdiction to which Respondent moves shall be notified by Respondent in writing of the provisions of this Stipulation and Order. Periods of residency or practice outside the State of Utah may apply to the reduction of the period this Stipulation and Order is in effect, if the new state of residency places equal or greater conditions upon the Respondent as those contained in this Stipulation and Order.
- l. If Respondent is arrested or charged with a criminal offense by any law enforcement agency, in any jurisdiction, inside or outside the

State of Utah, for any reason, other than minor traffic offenses, or should Respondent be admitted as a patient to any institution in this state or elsewhere for treatment regarding the abuse of or dependence on any chemical substance, or for treatment for any emotional or psychological disorder, Respondent agrees to cause the Division and Board to be notified immediately. If Respondent at any time during the period of this agreement is convicted of a criminal offense of any kind, including an offense based on the conduct described in this Stipulation and Order, or enters a plea in abeyance to a criminal offense of any kind, including a pending criminal charge, the Division may take appropriate action against Respondent, including imposing appropriate sanctions, after notice and opportunity for hearing. Such sanctions may include revocation or suspension of Respondent's license, or other appropriate sanctions.

- m. Respondent shall maintain a current license at all times during the period of this agreement.
- n. Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address.
- o. Respondent shall submit reports on the date they are due and shall appear at scheduled meetings with the Division and Board promptly. Failure to do so shall be considered a violation of this Stipulation and Order.
- p. Respondent shall successfully complete six hours of continuing professional education courses focusing on law and ethics. The courses shall be pre-approved by the Division and Board. The courses shall be completed within one year of the effective date of this Stipulation and Order. The courses shall not count toward Respondent's regular continuing education requirement.

9. Upon approval by the Director of the Division, this Stipulation and Order shall be the final compromise and settlement of this non-criminal administrative matter. Respondent acknowledges that the Director is not required to accept the terms of this Stipulation and Order and that if the Director does not do so, this Stipulation and the representations contained therein shall be null and void, except that the Division and the Respondent waive any claim of bias or

prejudgment they might otherwise have with regard to the Director by virtue of his having reviewed this Stipulation, and this waiver shall survive such nullification.

10. Respondent shall abide by and comply with all applicable federal and state laws, regulations, rules and orders related to the Respondent's licensed practice. If the Division files a Petition alleging that Respondent has engaged in new misconduct or files an Order to Show Cause Petition alleging that Respondent has violated any of the terms and conditions contained in this Stipulation and Order, the period of Respondent's probation shall be tolled during the period that the Petition or Order to Show Cause Petition has been filed and is unresolved.

11. This document constitutes the entire agreement between the parties and supersedes and cancels any and all prior negotiations, representations, understandings or agreements between the parties regarding the subject of this Stipulation and Order. There are no verbal agreements that modify, interpret, construe or affect this Stipulation. Respondent agrees not to take any action or make any public statement, that creates, or tends to create, the impression that any of the matters set forth in this Stipulation and Order are without factual basis. A public statement includes statements to one or more Board members during a meeting of the Board. Any such action or statement shall be considered a violation of this Stipulation and Order.

12. The accompanying Order becomes effective immediately upon the approval of this Stipulation and signing of the Order by the Division Director. Respondent shall comply with all the terms and conditions of this Stipulation immediately following the Division Director's signing of the Order page of this Stipulation and Order. Respondent shall comply with and timely complete all the terms and conditions of probation. If a time period for completion of a term or condition is not specifically set forth in the Stipulation and Order, Respondent agrees that

the time period for completion of that term or condition shall be set by the Division and/or Board. Failure to comply with and timely complete a term or condition shall constitute a violation of the Stipulation and Order and may subject Respondent to revocation or other sanctions.

13. If Respondent violates any term or condition of this Stipulation and Order, the Division may take action against Respondent, including imposing appropriate sanction, in the manner provided by law. Such sanction may include revocation or suspension of Respondent's license, or other appropriate sanction.

14. Respondent understands that the disciplinary action taken by the Division in this Stipulation and Order may adversely affect any license that Respondent may possess in another state or any application for licensure Respondent may submit in another state.

15. Respondent has read each and every paragraph contained in this Stipulation and Order. Respondent understands each and every paragraph contained in this Stipulation and Order. Respondent has no questions about any paragraph or provision contained in this Stipulation and Order.

16. The Division agrees that it will not initiate any referral of this matter to any law enforcement authority, but will cooperate with any law enforcement authority that requests the Division's assistance.

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

BY:



SALLY A. STEWART
Bureau Manager

DATE.

11/08/2011

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY:



L. MITCHELL JONES
Counsel for the Division

DATE.

8 Nov 2011

RESPONDENT

BY:



CINDY LEE PETERSON
Respondent

DATE:

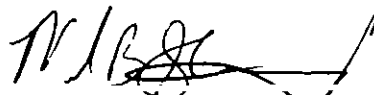
11-8-2011

ORDER

THE ABOVE STIPULATION, in the matter of **CINDY LEE PETERSON**, is hereby approved by the Division of Occupational and Professional Licensing, and constitutes my Findings of Fact and Conclusions of Law in this matter. The issuance of this Order is disciplinary action pursuant to Utah Administrative Code R156-1-102(6) and Utah Code Ann § 58-1-401(2). The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 10 day of November, 2011.

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


MARK B. STEINAGEN
Director

Investigator: Jared Memmott